

EXHIBIT 16
FILED UNDER SEAL

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

HUAWEI TECHNOLOGIES CO. LTD.,)
HUAWEI DEVICE USA, INC., and)
HUAWEI TECHNOLOGIES USA, INC.,)

Plaintiffs/Counterclaim)
Defendants,)

vs.)

Case No.
16-cv-02787-WHO

SAMSUNG ELECTRONICS CO., LTD.,)
SAMSUNG ELECTRONICS AMERICA,)
INC.,)

Defendants/Counterclaim)
Plaintiffs,)

and)

SAMSUNG RESEARCH AMERICA,)
INC.,)

Defendant,)

vs.)

HISILICON TECHNOLOGIES CO.,)
LTD.,)

Counterclaim-Defendant.)

HIGHLY CONFIDENTIAL
VIDEOTAPED DEPOSITION OF JACQUES deLISLE
Chicago, Illinois
Friday, June 15, 2018

Reported by:
RACHEL F. GARD, CSR, RPR, CLR, CRR
JOB NO. 143457

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June 15, 2018
8:56 a.m.

Videotaped deposition of JACQUES deLISLE,
at the offices of Quinn Emanuel Urquhart &
Sullivan, LLP, 191 North Wacker Drive,
Chicago, Illinois, pursuant to notice
before Rachel F. Gard, Illinois Certified
Shorthand Reporter, Registered Professional
Reporter, Certified LiveNote Reporter,
Certified Realtime Reporter.

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1 A P P E A R A N C E S:

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11 Attorneys for Samsung

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13 Redwood Shores, California 94065

14 BY: VICTORIA MAROULIS, ESQ.

15 MICHAEL KANG, ESQ.

23 ALSO PRESENT: SCOT ZIARKO, Videographer

1 Q. Understood. I wasn't asking for the
2 people who were helping you but rather what we
3 call a percipient witness.

4 A. No.

5 Q. Thank you. Turning back to your
6 Exhibit B to your reports, in preparation of
7 your opinion in this case, did you review the
8 report of Dr. Jerry Hausman?

9 A. I did not.

10 Q. Did you review the report of
11 Dr. Greg Leonard?

12 A. I did not.

13 Q. Did you review the report of
14 Dr. Michael Davies?

15 A. I did not.

16 Q. Did you review the report of
17 Mr. Sebastien Borghetti?

18 A. No.

19 Q. Did you review any reports provided
20 by Huawei's experts?

21 A. No.

22 Q. So if I went down the list of
23 Huawei's experts, that wouldn't refresh your
24 recollection, right?

25 A. I've heard some of those names. But

1 I think I heard them yesterday on a list of
2 possible expert witnesses. I have not read any
3 of those reports.

4 Just again, in the interest of
5 completeness here, I was sent some of the
6 papers in this case, which helped me frame the
7 issues. But I read some of them and did not
8 connect an analysis of them.

9 Q. Are the papers you were sent in this
10 case all listed on the first page of Exhibit B?

11 A. I think that's everything, and I
12 think one or two of those I may not have looked
13 at. I'm not sure I looked at the hearing
14 transcript. It was provided to me, but ...

15 Q. Did you review deposition
16 transcripts of any Huawei or Samsung witnesses
17 in this case?

18 A. No. I reviewed the declaration of
19 Bin Wang, but that's the only document of that
20 type I recall looking at.

21 Q. Did you sign a protective order in
22 this case?

23 A. I believe I did. I'm sure I did.
24 The reason that there's that confusion, I
25 signed a protection order in the ASUS case at

1 from which you deduced this statement?

2 A. I don't recall.

3 Q. What did Huawei's counsel
4 specifically tell you about Samsung's expert's
5 opinion?

6 A. On this particular issue, again, I
7 think not a whole lot beyond what's reflected
8 in this statement. I understand that there's
9 been a confusing, to me, set of layers of
10 injunctions to not seek injunctions, requests,
11 things of that ilk, but I have not parsed it
12 terribly closely.

13 My opinions are really, again, as I
14 said, evaluations of Chinese court proceedings
15 and Chinese law. My understanding is that the
16 quality or propriety of those proceedings and
17 decisions are relevant in the broader
18 litigation here because of a claim by Samsung
19 that the pursuit of injunctive relief in China,
20 which is the object and outcome in the case,
21 initial outcome in the case that I examined, is
22 problematic as a matter of U.S. law. I would
23 characterize this as a statement of how I'm
24 informed by Huawei, Samsung -- or by Huawei's
25 counsel, Samsung views that seeking of

1 I take all of this as basically
2 framing my task, which is again assessing the
3 quality or propriety of the Chinese action
4 seeking an injunction. My opinions are limited
5 to that. People seek out my opinions on these
6 things for what I assume to be purposes in
7 litigation. It's helpful to me to know in a
8 general way what the litigation is about. It
9 helps me to address the relevant questions.
10 But my opinions about the Chinese court and the
11 Chinese proceedings would not be affected by
12 the use to which counsel for either side wants
13 to put them.

14 Q. So you personally don't know whether
15 any Samsung experts asserted that pursuit of
16 injunctive relief in the Chinese courts was a
17 violation of FRAND obligations, right?

18 A. I don't think I've seen any Samsung
19 expert reports. I don't recall what pieces fed
20 into the statement among conversations with
21 Huawei's counsel, papers that I've seen in the
22 case, and so on.

23 As I understand it, the question of
24 whether injunctions comply with FRAND is an
25 issue that is whether a party seeking an

1 injunction is violating FRAND obligations by
2 thereby seeking to coerce or acquire a means to
3 coerce the other party. I understand that's a
4 subject of some dispute in the U.S. litigation
5 here, but I have not looked into it.

6 Q. Do you understand whether any
7 Samsung expert offered an opinion on the
8 quality of Chinese courts and the fairness of
9 Chinese procedure?

10 A. I have not been told that any
11 Samsung expert has. In my understanding, the
12 question of the quality and propriety of the
13 Chinese proceeding or seeking an injunction in
14 China is a matter for which -- let me rephrase
15 that.

16 That the -- as what I understand to
17 be Samsung's opposition or concern about
18 Huawei's having sought relief in Chinese court
19 that included an injunction, that the
20 pervasiveness or the significance of that point
21 would or at least very much could depend on a
22 judgment about what the Chinese courts did here
23 and whether it was consistent with relevant law
24 and proper application of process in China.

25 Q. If Huawei sued Samsung for

1 Q. Mr. deLisle, before the break, we
2 were discussing Paragraph 16 of your report.
3 Please turn to Paragraph 17. In that
4 paragraph, you identified the areas on which
5 counsel asked you to prepare opinion, correct?

6 A. Yes.

7 Q. Is it correct that Samsung's experts
8 did not offer overview of the Chinese court
9 system?

10 A. I am not aware that they have.

11 Q. Is it correct that Samsung's experts
12 did not opine on the analysis of judgment from
13 the Shenzhen court in the 840 and 816
14 decisions?

15 A. Again, not that I've been told.

16 Q. Is it correct that Samsung witnesses
17 did not opine on the Court's assessment of the
18 evidence presented by both parties, procedures
19 followed, and the law applied by the Shenzhen
20 court?

21 A. Again, I do not know in detail what
22 they've opined on. As we've discussed before,
23 I am of the understanding that Samsung's
24 objection to the seeking of injunctive relief
25 in China was a problem and, to that end, a

1 quality of what led to that injunction is
2 something I was asked to opine on.

3 Q. Turning to Paragraph 20 of your
4 report, you reference that certain things are
5 not consistent with a claim that the courts
6 relevant here have not or are not capable of
7 adjudicating the cases between Huawei and
8 Samsung fairly and according to law.

9 Do you see that?

10 A. Yes, I do.

11 Q. Again, there's no Samsung expert
12 report that posits that, correct?

13 A. Again, I have not seen Samsung
14 expert reports.

15 Q. Sir, is it fair to say that the
16 portion of your report entitled 3, The
17 Samsung/Huawei Litigation, Shenzhen, summarizes
18 the 840 and 816 opinions?

19 A. That is certainly one of the things
20 it does. And yes, it's obviously a relatively
21 short summary of a very long case. I think
22 there are other parts of the opinion that also
23 probably address this question, but this is
24 certainly the focus of this section.

25 Q. In fact, you were not asked to